

UNITED STATES OF AMERICA
Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes, 2000)

Docket No. R2000-1

OFFICE OF THE CONSUMER ADVOCATE
NOTICE OF AVAILABILITY OF WITNESSES FOR HEARING
AND SUGGESTION FOR APPEARANCE OF
CONTINGENCY WITNESSES AS A PANEL
(June 19, 2000)

To: Hon. Edward J. Gleiman
Presiding Officer

Pursuant to the Presiding Officer's Ruling No. R2000-1/71, May 26, 2000, the Office of the Consumer Advocate ("OCA") hereby provides the following information regarding dates on which its witnesses will be available for the hearings now scheduled for July 6 through July 21, 2000. Also, the OCA suggests that provision be made for the OCA's contingency witnesses to appear as a panel.

The witnesses on the OCA's staff are available for the entire period of the hearing. The other three of the OCA witnesses will be available on the following dates:

Burns – July 6 & 7;
Rosenberg – July 6 through July 19;
Ewen – July 6 through July 18.

The OCA suggests that witnesses Burns and Rosenberg appear as a panel to be cross-examined on their testimonies concerning the appropriate level of the

contingency provision. The OCA retained the services of the National Regulatory Research Institute ("NRRI") at Ohio State University to address the Postal Service's contingency request. NRRI assigned Mr. Burns and Dr. Rosenberg to collaborate on the project, and they determined to present coordinated testimony addressing various aspects of the contingency.

The Burns and Rosenberg testimonies are closely coordinated. Mr. Burns provides a critique of the Postal Service's direct case which underlies part of Dr. Rosenberg's analysis. See, e.g., OCA-T-3 at 17. Dr. Rosenberg makes the specific contingency recommendation, which is concurred in by Mr. Burns. See OCA-T-2 at 12. Because of the interrelated nature of the Burns and Rosenberg analyses, it appears likely that questions may be asked of one witness which may be more appropriately answered by the other.

When such witnesses appear *seriatim*, the potential exists for one witness to refer a question to the other. Depending on whether the other witness will appear later, the answer may or may not eventually appear in the record. Even if it does, it may be out of the context of the original line of questions, creating the potential for an unclear or incomplete record. Even in the best of circumstances, repetitive material appears in the transcript as counsel repeats a line of questioning for the other witness.

The problem of questions referred to other witnesses was noted during the first round of hearings in this Docket. Following a series of objections that a witness was not the appropriate person to whom to direct a line of questioning, the Presiding Officer observed that taking testimony from a panel of witnesses may avoid confusion. The Presiding Officer noted that "this is complex material and that one person can't have all

the answers but it may be that we need to in Year 30 re-examine how we go about doing some of this questioning in the hearing room.” Tr. 13/5060-61.

This is an instance, the OCA submits, that having two witnesses appear as a panel makes eminent sense. Mr. Burns and Dr. Rosenberg coordinated in the preparation of their respective testimonies. Both witnesses appear for the OCA, both address the same issue, and both make references to the substantive testimony of the other.

A panel appearance of these witnesses would be advantageous to cross-examining counsel and to the Commission. Counsel may still direct questions to one witness or the other. An advantage to a panel appearance is that if the question is more appropriately answered by the other witness, it can be answered immediately, and counsel would have the opportunity for immediate follow-up. For questions that counsel asks of the panel, the more appropriate witness may respond, or both witnesses can offer responses. Again, counsel would have full opportunity for immediate follow-up of responses from either or both witnesses.

If the Commission decides to hear witnesses Burns and Rosenberg separately, the OCA requests that they be scheduled for the same day. This will permit the most economical travel arrangements and facilitate helpful consultation between the witnesses and the OCA.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE



TED P. GERARDEN

Director

Office of the Consumer Advocate

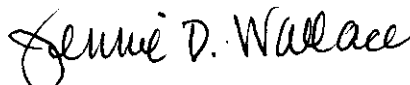
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.



JENNIE D. WALLACE

Washington, D.C. 20268-0001
June 19, 2000